

AMENDMENT AND RESPONSE TO OFFICE ACTION
U.S. Serial No.: 09/783,354
Title: Orthogonally Ambiguous Carpet Tile

REMARKS

This Amendment and Response amends claim 1 and adds new claims 49-95. With this Amendment and Response, claims 1-19, 21-24, 27-30, 40-45, 47, and 49-95 are pending in this application. Please charge any fees overpayment to Deposit Account No. 11-0855.

I. Claim Rejections

The June 16, 2003 Action rejects claims 1-19, 21-24, 27-30, 40-45, and 47 under 35 U.S.C. § 112, first paragraph and under 35 U.S.C. § 112, second paragraph. The Action also rejects claims 1-3, 5-10, 21, 27, 28, 32, 34-40, 45, 46, and 48 under 35 U.S.C. § 102 as anticipated by Eusemann and claims 4, 11-19, 22-24, 29, 30, 40-44, and 47 under 35 U.S.C. § 103 as unpatentable over Eusemann in view of Hamilton et al. After attending an interview with Examiner Juska on September 12, 2003,¹ it is the understanding of the undersigned attorney for applicants that Examiner Juska intends to withdraw the 35 U.S.C. §§ 112, 102, and 103 rejections set forth in the June 16, 2003 Office Action and thus (except for the discussion of §112 matters below) a substantive response to those rejections is not necessary and therefore is not provided herein. The undersigned respectfully requests that the Examiner contact him or Applicant's attorney Kris Johnson if he is mistaken.

II. Amendments to the Claims

The undersigned attorney appreciates the Examiner's suggestions to include additional claims (restoring to the application claims previously presented and subsequently amended together with one new claim), and claims 49-95 are therefore herein submitted. Such claims are directed to the Examiner's recognition that the "without pattern alignment between adjacent

¹ The undersigned counsel for Applicants' Assignee believes that the Examiner's Interview Summary and this paper fully set forth the substance of the interview, but if the Examiner believes that further description of the interview is needed in the record, she is respectfully requested to so inform the undersigned.

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tiles" limitation is unnecessary to overcome the art of record, as Applicants' Assignee has maintained throughout prosecution, because the "orthogonally ambiguous" limitation overcomes the art currently of record. However, while new claims 49-95 are presented without such a limitation, Applicants' Assignee wishes to continue prosecution of claims that include this limitation to obtain claims of various scopes. Accordingly, claims 1-19, 21-24, 27-30, 40-45, and 47 remain in the application. Furthermore, new claim 49, which is similar to claim 1 but includes the limitation of "partitioned pattern shapes"² instead of "pattern alignment between adjacent tiles," is also presented.

Support In Specification

Applicants' Assignee believes that the concepts that pattern shapes can be partitioned between tiles and that tiles can be assembled without aligning the patterns are fully supported by the specification, and thus the limitations "without pattern alignment between adjacent tiles" and "partitioned pattern shapes" do not constitute new matter. The following identifies some of the places within the Application as originally filed that provide such support.³

The Application teaches that a drawback of prior art carpet tiles is that they require pattern alignment. *See, e.g.*, ¶ 0003 (explaining that prior art tiles "must be oriented on the floor so that their pattern aligns with the patterns of adjacent tiles" and that "some patterns used on carpet tiles require that the second tile be placed only adjacent to a particular side or sides of the first tile"); *see also* ¶ 0005. The Application then presents the present invention as a solution to the problem of pattern matching. *See, e.g.*, ¶ 0006 ("This invention addresses the above-described problems by providing carpet tiles and a method of making carpet tiles having patterns

² The language of this limitation, "partitioned [pattern] shapes," appears in paragraph [0009].

³ The specification may not include the exact phrase "without pattern alignment," but the meaning of that phrase is communicated just as plainly as a traffic policeman would communicate to a passing motorist to keep moving by saying "do not stop."

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and color schemes that *obviate the need to orient the tiles (with respect to pattern or nap)* relative to each other") (emphasis added).

The Application teaches creating carpet tiles with patterns of shapes on the carpet tile face. *See, e.g., FIGS. 2 and 3.* One way of doing this is to create a web with a pattern of shapes and then cut the web into carpet tiles. *See ¶ 0008 and FIG. 1.*⁴ The Application explains that when this is done, shapes on the web may be partitioned between multiple tiles. *See FIG. 1 and ¶ 0016* ("Partition line 24 will pass through and partition shape 32, thereby resulting in a portion of shape 32 ending up on each of tile 1 and 2.").

The Application teaches subsequently installing these tiles without regard to the position or the rotational orientation of the tiles in the assembly. *See ¶¶ 0006, 0007, and 0009, and 0010.* Assembling the tiles in this manner necessarily means that the patterns between adjacent tiles do not need to be aligned in order for the tiles to exhibit orthogonal ambiguity. As the application makes clear, one of the purposes of the invention is to obviate the need to carefully orient and place tiles in the assembly as has been necessary in the past to ensure that the patterns on tiles align. If it were necessary in accordance with this invention to align the patterns on the tiles of the present invention with the patterns on adjacent tiles, then this invention would merely practice the re-assembly of tiles in the same position and rotational orientation as they existed on the web (a concept that has admittedly been done for decades) – thereby teaching away from the novel concept of orthogonal ambiguity.

That the Application teaches tiles that can exhibit orthogonal ambiguity with partitioned pattern shapes and without pattern alignment is further confirmed by FIG. 3 which illustrates

⁴ Persons skilled in the art would recognize that alternatively tiles could be produced first and then printed or otherwise treated to place a pattern of shapes on the tile.

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tiles 1 and 2 assembled so that the two portions of shape 32 (resulting from cutting along partition line 24) are no longer abutting (as they are in FIGS. 1 and 2) but rather end up separated – on the right side of tile 1 and on top of tile 2 in FIG. 3. Thus, FIG. 3 clearly teaches assembling carpet tiles that include partitioned pattern shapes and assembling those tiles without pattern alignment.

These concepts are further contemplated by the Application when it explains that “[t]he presence, within the pattern, of shapes with edges parallel to the edges of the tile insure that, if the shapes are partitioned when the web is cut into tiles, the partitioned shapes will not appear out of place” ¶ 0009. The Application clearly contemplates installing the tiles with the partitioned shapes unaligned. If not (i.e., if the shapes were to be aligned during tile assembly), then there would be no concern that a shape would “appear out of place.” Similarly, the Application explains that “[t]he shapes must generally be small enough so that several shapes will end up positioned within each tile. Otherwise, the fraction or fractions of larger shapes falling on a particular carpet tile would potentially look odd.” ¶ 0017. Again, the concern over fractions of shapes looking “odd” makes sense only if it is the tiles are to be assembled without aligning the patterns on adjacent tiles. Thus, in practicing this invention, pattern shapes cut “partitioned” onto two tiles not be abutting or aligned when the carpet tile is installed.

For at least the reasons explained above, Applicants’ Assignee and the undersigned attorney believe that the Application clearly provides support for the limitations that the carpet tiles are able to exhibit orthogonal ambiguity (a) without pattern alignment between adjacent tiles (as recited in claim 1), and (b) with partitioned pattern shapes (as recited in claim 49). However, if the Examiner believes that Applicants’ Assignee needs to make the exact phrases “without pattern alignment between adjacent tiles” and/or “with partitioned pattern shapes”

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explicit in the specification, Applicants' Assignee will be happy to amend the specification to do so.

III. Amendments to the Specification

During the September 12, 2003 interview, the Examiner also indicated that the subject matter of two claims, while supported by the application, is not explicitly described in the specification. This subject matter appears in claim 28 (which recites "a pattern with at least one rectangular shape") and claim 33 (which recites that "at least some of the plurality of shapes [on the web] are formed by yarn tufts of the first color and the second color, at least some of the yarn tufts of the first color having a height greater than at least some of the yarn tufts of the second color proximate the tufts of the first color"). Therefore, amendments to the written description explicitly describe the subject matter of these claims.

CONCLUSION

Applicant's Assignee respectfully submits that claims 1-19, 21-24, 27-30, 40-45, 47, and 49-95 are in condition for immediate allowance, and requests early notification to that effect. If there are any matters that can be addressed by telephone, the Examiner is urged to contact the undersigned at 404 815-6367 or Kris Johnson at 404 815-6389.

Respectfully submitted,
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